

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-386-E - ORDER NO. 2009-721
OCTOBER 9, 2009

IN RE: Application of South Carolina Electric & Gas)	ORDER APPROVING
Company for Approval of a Contract for)	CONTRACT AND
Electric Service with Horsehead Corporation)	GRANTING
)	CONFIDENTIAL
)	TREATMENT

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the request, filed September 11, 2009, of South Carolina Electric & Gas Company (“SCE&G” or the “Company”) for approval of a Contract for Electric Service (“Contract”) between the Company and Horsehead Corporation (“Horsehead”). Pursuant to the Contract, SCE&G will provide electric service to Horsehead for the operation of certain facilities operated by Horsehead located in Barnwell County, South Carolina. SCE&G now seeks approval of the Contract.

According to SCE&G, the Contract is related to Horsehead’s decision to locate a recycling facility at the South Carolina Advanced Technology Park in Barnwell County for recycling electric arc furnace dust. Pursuant to the Contract, Horsehead will buy from SCE&G all purchased electric energy, capacity, related transmission services, and any related distribution services required by Horsehead for use on its premises aforementioned.

SCE&G also requests that the Commission find that the Contract contains highly confidential and sensitive information, which should be protected, and issue a protective

order barring the disclosure of the Contract under the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, S.C. Code Ann. Regs. 103-804(S)(1), or any other provision of law, except in redacted form. SCE&G states in its request that certain provisions of the Contract contain commercially sensitive and proprietary information. SCE&G also states that these facts, in light of the highly competitive nature of the industry in which Horsehead operates, support designating this document as confidential.

Based upon an examination of the Contract and SCE&G's request, we find the Contract to be fair and reasonable and hereby approve it as filed. Further, based upon SCE&G's assertions and the Commission's examination of the terms of the Contract, the Commission finds that the Contract contains commercially sensitive information and that the proprietary nature of certain provisions of the Contract, coupled with the highly competitive nature of the industry in which Horsehead operates, supports the designation of this document as confidential.

The South Carolina Freedom of Information Act ("FOIA") allows proprietary business information that meets the definition of "trade secrets" to be exempt from disclosure. S.C. Code Ann. Section 30-4-40(a)(1) states that matters which may be exempt from FOIA include: "(1) Trade secrets, which are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes Trade secrets also include, for those public bodies who market services or products in competition with others, feasibility, planning, and marketing studies, and evaluations and other materials which contain references to potential customers, competitive information or evaluation."

Further, pursuant to 26 S.C. Code Ann. Regs 103-804(S)(2), it is within the Commission's discretion to issue an order protecting a document from public disclosure.

Based upon a review of the information that SCE&G seeks to protect, we find that the information contained in the Contract falls within the definition of materials which may be exempted from disclosure under FOIA. Because of the potential harm to SCE&G's and Horsehead's business and practices, we find a protective order should be issued protecting the redacted information from public disclosure. Further, based upon SCE&G's assertions and the Commission's careful examination of the terms of the Contract, the Commission agrees with SCE&G and so finds that the Contract is highly confidential and commercially sensitive.

We approve the Contract and grant confidentiality as requested. It appears that approval of the Contract is in the public interest. The commercial sensitivity and proprietary nature of certain provisions of the Contract, as well as the highly competitive nature of the industry in which SCE&G and Horsehead operate, dictates that the Contract in question be received in its original form under seal for Commission review and be kept confidential.

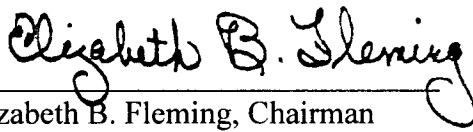
IT IS THEREFORE ORDERED THAT:

1. The Contract for Electric Service between South Carolina Electric & Gas Company and Horsehead Corporation is fair and reasonable and is hereby approved.
2. The request of SCE&G for confidential treatment is granted. Accordingly, the Contract for Electric Service shall be declared confidential, shall be afforded confidential treatment, and shall be protected from public disclosure pursuant to the

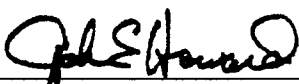
provisions of S.C. Code Ann. Section 30-4-40(a)(1), 26 S.C. Code Ann. Regs 103-804(S)(2) and other applicable law. A redacted version of the Contract will be made available for public review.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman
(SEAL)